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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,639	10/17/2001	Michael J.P. Lawman	MOR-100D2	8705
23557	7590	01/11/2005	EXAMINER	
SALIWANCHIK LLOYD & SALIWANCHIK A PROFESSIONAL ASSOCIATION PO BOX 142950 GAINESVILLE, FL 32614-2950			SAUNDERS, DAVID A	
			ART UNIT	PAPER NUMBER
			1644	

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/981,639

Applicant(s)

LAWMAN ET AL.

Examiner

David A Saunders, PhD

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--Th MAILING DATE of this communication appears on the cover sheet with th correspondenc address --

THE REPLY FILED 11/2/04 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below), attached
- (b) ☒ they raise the issue of new matter (see Note below), attached
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): SEE ATTACHED
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 14-5-9

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

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It is to be noted that the amendment inserting "layer(s)" in claims 14, 23, 26 and 34 would overcome the 112, new matter rejections pertaining to these claims, as set forth at pages 3 and 5 of the FINAL rejection.

It is to be noted that the amendment deleting "attached to" in claims 14, 26, 44 and 56 would overcome the 112, new matter rejections pertaining to these claims, as set forth at page 4 of the FINAL rejection.

It is to be noted that the amendment deleting "presented external to the surface" in claims 14, 26, 39 and 52 would overcome the 112, new matter rejections pertaining to these claims, as set forth at page 4 of the FINAL rejection, as well as the 112, enablement rejection pertaining to these claims, as set forth at page 7 of the FINAL rejection.

It is to be noted that the amendment inserting "alkyl substituted" in claims 17 and 49 would overcome the 112, new matter rejections pertaining to these claims, as set forth at page 4 of the FINAL rejection.

It is to be noted that the amendment inserting "sulfonate" and "p-" in claims 18 and 50 would overcome the 112, new matter rejections pertaining to these claims, as set forth at page 4 of the FINAL rejection.

It is to be noted that the amendment inserting "polyphenol" in claims 26 and 37 would overcome the 112, new matter rejections pertaining to these claims, as set forth at page 5 of the FINAL rejection.

It is noted that the amendment cancelling claims 22, 33, 47 and 59 would overcome the 112, enablement rejection pertaining to these claims, as set forth at page 6 of the FINAL rejection.

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While the above 112 issues would be overcome, it is noted that 112 new matter issues pertaining to claims 21, 24-25, 32, 35-37, 46, 48 and 58, as set forth at pages 5-6 have not been addressed by amendment. Likewise the 101/112 rejection of claims 24-25 and 35-36, at page 8 has not been addressed by amendment. The examiner will not consider applicant's after FINAL urgings pertaining to these claims, because the issues are overly complex for after final considerations.

The amendment would also raise issues of new matter – e.g. whether “non-cell bound” to be inserted into claim 48 would be new matter by a negative limitation. Ex parte Grasselli 231 USPQ 393.

Also, due to the extensive changes entered into independent claims 14, 26 and 37 all dependent claims would require examination for consistency therewith – e.g. claims 30 and 40 recite “net negative charge” which appears to be inconsistent with the polyphenol polymer of the independent claims.

In summary, while applicant's response would overcome a number of the 112 issues of record, a sufficient number of issues remain and a sufficient number of new issues would be raised to deny entry of the amendment after FINAL. The examiner sees no reason to fix problems that were created by the presentation of an excessive number of non-originally filed claims in the response of 5/19/04 that raised a large number of issues.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A Saunders, PhD whose telephone number is 571-272-0849. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

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supervisor, Christina Chan, can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Typed 1/10/05 DAS


DAVID SAUNDERS
PRIMARY EXAMINER
ART UNIT-182-1644